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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,458	11/14/2003	John Franklin Hayhurst	7380	9146

7590

10/13/2004

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EXAMINER

THOMAS, DAVID B

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/713,458	HAYHURST, JOHN FRANKLIN	
	Examiner	Art Unit	
	David B. Thomas	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8 and 10 is/are rejected.
- 7) ☒ Claim(s) 5-7 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/28/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: The specification lacks the appropriate headings, e.g. Background of the Invention; Brief Summary of the Invention; Brief Description of the Several Views of the Drawings; etc.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Sekino (JP 10337679 A).

Sekino ('679) discloses a tool for breaking glass comprising a striking tip of pointed form, a head supporting the striking tip, a handle to grip the tool, and a chisel shaped, flattened end part, including means on or in the region of the head formed to enable removal of broken glass pieces.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sekino ('679), as applied to claims 1-4 above, in view of Hollinger (D 417,130), Kitamura (JP 07251383 A), Klotz (5,251,351), Murakami (JP 11010556 A), Werner et al. (EP 845333 A1), or Yamabe (5,952,916).

Sekino ('679), as applied to claims 1-4 above, discloses the claimed invention except for the provision of a ridged formation on the handle of the tool. Hollinger (D 417,130), Kitamura (JP 07251383 A), Klotz (5,251,351), Murakami (JP 11010556 A), Werner et al. (EP 845333 A1), or Yamabe (5,952,916) disclose a tool for breaking glass, and each disclose that it is known to provide a ridged formation on the handle of the tool in order to assist a user's grip of the tool. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the handle of the tool of Sekino ('679) by providing a ridged formation on the handle, as Hollinger (D 417,130), Kitamura (JP 07251383 A), Klotz (5,251,351), Murakami (JP 11010556 A), Werner et al. (EP 845333 A1), or Yamabe (5,952,916) clearly teach that such a provision for the handle of a tool was known in the art at the time the invention was made, the purpose of which is to assist, or improve a user's grip on the tool.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sekino ('679), as applied to claims 1-4 above, in view of Kitamura (JP 09085646 A).

Sekino ('679), as applied to claims 1-4 above, discloses the claimed invention except for the provision of an aperture through the handle at a position remote from the head. Kitamura (JP 09085646 A) discloses a tool for breaking glass, and in one

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embodiment (Fig. 12) demonstrates that it is known to provide an aperture through the handle at a position remote from the head. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the handle of the tool of Sekino ('679) by providing an aperture through the handle at a position remote from the head, as Kitamura (JP 09085646 A) clearly demonstrates that such a provision was known in the art.

Allowable Subject Matter

7. Claims 5-7, and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: It is the examiner's opinion that the means on or in the region of the head to enable removal of broken glass pieces, wherein the means comprises a formation consisting of a plurality of protrusions spaced apart by a ridge, has neither been anticipated nor fairly suggested, in part or whole, by the prior art of record.

Conclusion


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Thomas whose telephone number is (703) 308-4250. The examiner can normally be reached on 7-4 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (703) 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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David B. Thomas
Patent Examiner
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